

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MARGARET R. DEPASS PADIN,  
Plaintiff,  
v.  
J. P., et al.,  
Defendants.

Case No. [20-cv-03802-JD](#)

**ORDER REVOKING PLAINTIFF'S  
IN FORMA PAUPERIS STATUS**

In Margaret Padin's pending appeal, the Ninth Circuit made a limited referral back to this Court to determine whether a prior grant of in forma pauperis status should continue, or whether the appeal is frivolous or taken in bad faith. Dkt. No. 14.

An indigent party who cannot afford the expense of pursuing an appeal may file a motion for leave to proceed in forma pauperis. Fed. R. App. P. 24(a); 28 U.S.C. § 1915(a)(1). Pursuant to Federal Rule of Appellate Procedure 24(a), "a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court." The party must attach an affidavit that (1) shows in detail "the party's inability to pay or to give security for fees and costs," (2) "claims an entitlement to redress," and (3) "states the issues that the party intends to present on appeal." Fed. R. App. P. 24(a)(1). But even if a party provides proof of indigence, "[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3). An appeal is in "good faith" where it seeks review of any issue that is "non-frivolous." *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002). An issue is "frivolous" if it has "no arguable basis in fact or law." *See O'Loughlin v. Doe*, 920 F.2d 614, 617 (9th Cir. 1990).

The appeal is frivolous. As the Court has noted multiple times, Dkt. Nos. 6, 9, the gravamen of plaintiff's complaint has to do with the custody of her child, and as such, plaintiff's

1 complaint falls within the domestic relations exception to federal jurisdiction. *See Ankenbrandt v.*  
2 *Richards*, 504 U.S. 689, 703 (1992); *Bridgeman v. County of Contra Costa*, No. 20-cv-00649-JD,  
3 2020 WL 978624, at \*1-2 (N.D. Cal. Feb. 28, 2020). Plaintiff's claims were deficient in other  
4 ways as well and her complaint was dismissed with leave to amend, *see* Dkt. No. 6 at 2-3, but  
5 plaintiff failed to amend her complaint or request an extension by the deadline set by the Court.  
6 Dkt. No. 7. The proposed amended complaint she belatedly filed was still about child custody and  
7 alleged the same claims that the Court had found insufficient for federal jurisdiction, without any  
8 meaningful additions or modifications. Dkt. No. 9.

9 Plaintiff's action has no arguable basis in fact or law, and her in forma pauperis status is  
10 consequently revoked. The Clerk is requested to forward this order to the Ninth Circuit in Case  
11 No. 20-17459.

12 **IT IS SO ORDERED.**

13 Dated: January 25, 2021

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JAMES DONATO  
United States District Judge